

-6-

**REMARKS**

This amendment is responsive to the Office Action of June 7, 2007.

**The Office Action**

Claims 1-6, 10, 12-14, 16-18 stand rejected under 35 U.S.C. §102(e) as being anticipated by Chmaytelli (PCT/US01/128491).

Claims 7-9, 11, 15, 19 and 20 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Chmaytelli (PCT/US01/28491) in view of Garudadri (U.S. Patent No. 6,519,479).

**Rejection under 35 U.S.C. § 102(e)**

Claims 1-6, 10, 12-14, 16-18 stand rejected under 35 U.S.C. §102(e) as being anticipated by Chmaytelli. This rejection should be withdrawn for at least the following reason: Chmaytelli fails to disclose, either expressly or inherently, each and every limitation set forth in the subject claims.

**BACKGROUND**

The subject application relates generally to a communication device that permits a user to record a message and provide an address (e.g., a cell phone number, email address, etc.), and to pre-designate a transmission time (e.g., date and/or time) for the recorded message to be transmitted. Storage of the recorded message is in the mobile device (e.g., client-side) used to record the message rather than at a service provider server, which permits the message to be transmitted at the pre-designated time regardless of the service provider being used by the mobile device at transmission time. For example, "... the apparatus ... enables a user to enter a message well before a pre-designated day and/or time and to schedule it to reach a communication address at this day and/or time, independent of supplementary services offered by a communication network. Scheduling a birthday greeting is an example of how a user could benefit from such an apparatus. When a user goes abroad, he will be able to send a birthday greeting as long as his telecom operator has a roaming agreement with a local telecom operator and his apparatus can use the local

-7-

operator's communication network. It is not necessary for the local telecom operator to provide the same supplementary services as the user's own telecom operator." See e.g., page 2, lines 5-14. This explanation is only provided to facilitate a better understanding of the application and is not to be construed as limiting the claims in any way.

### **CLAIMS AND ANALYSIS**

Turning now to the claims, independent claim 1 has been amended to set forth "...[a] control unit (9) comprises an auto-dialer (11) capable of initiating transmission of the message entry to the communication address when triggered and capable of attempting transmission to the communication address several times in order to successfully complete transmission of the message entry; and a timing device (13) is present, capable of triggering the auto-dialer (11) in dependence upon the time entry." The aspect of repetitively attempting transmission until successful was previously set forth in dependent claim 10. By placing the subject matter of dependent claim 10 into its parent claim 1, claim 10 has effectively been placed in independent form but not otherwise amended.

Amended independent claim 4 now sets forth a "control unit [that] includes an auto-dialer capable of initiating transmission of the message entry to the communication address when triggered; and a timing device that triggers the auto-dialer to transmit the message to the specified communication address at the at least one of date and time specified in the time entry; wherein the transmitter transmits a message entry with a prefix indicating that a message will follow, wherein the prefix comprises an electromagnetic signal received from a microphone," which aspects were previously set forth in dependent claims 7 and 8.

Independent claim 13 has been amended to set forth that "the communication software is stored on a record carrier," which aspect was previously set forth in dependent claim 14. Chmaytelli fails to disclose such aspects of independent claims 1, 4, and 13.

With regard to independent claim 1, the Examiner rejects the aspect of attempting transmission to the communication address several times in order to successfully complete transmission of the message as being anticipated by paragraph

-8-

[1009] of Chmaytelli, which states, in its entirety: "It may happen that the user prefers to wait before the message is sent. In this case, the telephone schedules 114 the voice mail message to be delivered at some later, convenient, time, and waits 116 until that time before opening 108 the traffic channel." The cited passage discusses delaying a transmission attempt, but nowhere does Chmaytelli describe the aspect of *repeatedly attempting* transmission until a successful transmission is achieved.

Regarding independent claim 4, the Examiner rejects the aspect of transmitting a message entry with a prefix indicating that a message will follow, wherein the prefix comprises an electromagnetic signal received from a microphone, as being obvious over the combination of Chmaytelli and Garudadri, citing the latter reference at Column 5, lines 35-52, and Column 6, lines 45-51. However, contrary to the Examiner's assertion, a careful review of the entire Garudadri reference yields no mention of a prefix appended to a recorded message, let alone a prefix that is entered via a microphone. Moreover, the prefix set forth in claim 4 permits a message recipient to distinguish between a real-time communication and a pre-recorded message. Rather, Garudadri relates to prompting a user to add a voice tag to a cell phone number or email address (e.g., to enter the phone number or email address into the user's voice-activated contact list) once the user has received a call or message from, or sent a call or message to, the phone number or email address a predefined number of times. This aspect of Garudadri does not anticipate using a microphone to add a prefix *to a voice message*.

Regarding independent claim 13, the Examiner rejects the aspect of communication software being stored on a record carrier as being anticipated by memory 212 described in paragraph [1014] of Chmaytelli, which states, in its entirety:

"The processor 206 may include a timer 210 to initiate the sending of stored messages. The messages are stored in a memory 212. When the convenient time comes, a transceiver 214 (if the telephone is a wireless telephone) opens a traffic channel to a desired telephone number and sends the message when an indication is received that the remote telephone (or other remote apparatus) at that number is ready. If the telephone is not wireless, then the transceiver 214 would be replaced with a line interface."

-9-

The above mention of memory 212, which stores only messages (e.g., and not communication software, let alone communication software that performs the functions of claim 13), is the only mention of a memory or storage medium in the entire Chmaytelli reference. Thus, Chmaytelli fails to describe the claimed aspects of independent claim 13.

In view of at least the foregoing, it is readily apparent that Chmaytelli fails to anticipate independent claims 1, 4, and 13 (and claims 2-3, 5-6, 10, 12, 14, and 16-18, which depend there from). Accordingly, withdrawal of this rejection is respectfully requested.

**Rejection under 35 U.S.C. § 103(a)**

Claims 7-9, 11, 15, 19 and 20 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Chmaytelli (PCT/US01/28491) in view of Garudadri (U.S. Patent No. 6,519,479). This rejection should be withdrawn for at least the following reason: The cited references, taken alone or in combination fail to teach or suggest every limitation set forth in the subject claims.

As stated above with regard to the independent claims, Chmaytelli fails to teach or suggest each and every aspect set forth therein. Garudadri fails to overcome the deficiencies of Chmaytelli with regard to independent claims 1, and 4. As such, the combination of Chmaytelli and Garudadri fails to teach or suggest every aspect of claims 7-9, 11, 15, 19 and 20, which depend respectively there from. Accordingly, withdrawal of this rejection is respectfully requested.

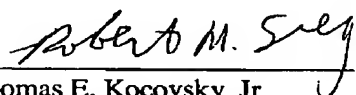
-10-

**CONCLUSION**

For the reasons set forth above, it is submitted that claims 1-6, 9-13, and 15-20 meet the statutory requirements and distinguish patentably over the references of record. An early allowance of all claims is requested.

Respectfully submitted,

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